

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Herman M.Gethers,) C/A No.: 4:15-3614-BHH

)) Plaintiff,)
vs.)) ORDER AND OPINION)) Defendant.)

)

The plaintiff Herman M. Gethers (“the plaintiff”), a state inmate proceeding *pro se* and *in forma pauperis*, filed this action pursuant to 42 U.S.C. § 1983. This matter is before the Court for review of the Report and Recommendation of United States Magistrate Judge Kaymani D. Westmade in accordance with 28 U.S.C. § 636(b) and Local Rule 73.02 for the District of South Carolina. On October 15, 2015, the Magistrate Judge issued a Report and Recommendation recommending that this case be dismissed *without prejudice*. (ECF No. 10.)

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this Court. See *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). The Court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. *Id.* The Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made.

The plaintiff was advised of his right to file objections to the Report and Recommendation. (ECF No. 10 at 6.) On October 29, 2015, the plaintiff filed a document

which he titled "Order of Objections," and which was docketed as a Reply. (ECF No. 12.) In that document, the plaintiff states that he agrees that the Court is without jurisdiction to entertain his complaint and that the case should be dismissed. In the absence of objections to the Magistrate Judge's Report and Recommendation, this Court is not required to provide an explanation for adopting the recommendation. See *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 and advisory committee's note).

Here, because the plaintiff has agrees with the Report of the Magistrate Judge and filed no objections, the Court has reviewed the Magistrate Judge's findings and recommendations for clear error. Finding none, the Court agrees with the Magistrate Judge that the plaintiff's claims against the defendants are subject to summary dismissal. Accordingly, the Report and Recommendation is adopted and incorporated herein by reference and this action is DISMISSED *without prejudice*.

IT IS SO ORDERED.

/s/Bruce Howe Hendricks
United States District Judge

November 4, 2015
Greenville, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.